

§ 27.9

persons with a disability is not prohibited by this part.

(e) *Reasonable accommodations.* A recipient shall make reasonable accommodations in policies, practices, or procedures when such accommodations are necessary to avoid discrimination on the basis of disability unless the recipient can demonstrate that making the accommodations would fundamentally alter the nature of the service, program, or activity or result in an undue financial and administrative burden. For the purposes of this section, the term reasonable accommodation shall be interpreted in a manner consistent with the term “reasonable modifications” as set forth in the Americans with Disabilities Act title II regulations at 28 CFR 35.130(b)(7), and not as it is defined or interpreted for the purposes of employment discrimination under title I of the ADA (42 U.S.C. 12111–12112) and its implementing regulations at 29 CFR part 1630.

[44 FR 31468, May 31, 1979, as amended at 68 FR 51390, Aug. 26, 2003; 79 FR 21405, Apr. 16, 2014; 80 FR 13260, Mar. 13, 2015]

§ 27.9 Assurance required.

(a) *General.* Each application for Federal financial assistance to which this part applies, and each application to provide a facility, shall, as a condition to approval or extension of any Federal financial assistance pursuant to the application, contain, or be accompanied by, written assurance that the program or activity will be conducted or the facility operated in compliance with all the requirements imposed by or pursuant to this part. An applicant may incorporate these assurances by reference in subsequent applications to the Department.

(b) *Future effect of assurances.* Recipients of Federal financial assistance, and transferees of property obtained by a recipient with the participation of Federal financial assistance, are bound by the recipient’s assurance under the following circumstances:

(1) When Federal financial assistance is provided in the form of a conveyance of real property or an interest in real property from the Department of Transportation to a recipient, the instrument of conveyance shall include a

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covenant running with the land binding the recipient and subsequent transferees to comply with the requirements of this part for so long as the property is used for the purpose for which the Federal financial assistance was provided or for a similar purpose.

(2) When Federal financial assistance is used by a recipient to purchase or improve real property, the assurance provided by the recipient shall obligate the recipient to comply with the requirements of this part and require any subsequent transferee of the property, who is using the property for the purpose for which the Federal financial assistance was provided, to agree in writing to comply with the requirements of this part. The obligations of the recipient and transferees under this part shall continue in effect for as long as the property is used for the purpose for which Federal financial assistance was provided or for a similar purpose.

(3) When Federal financial assistance is provided to the recipient in the form of, or is used by the recipient to obtain, personal property, the assurance provided by the recipient shall obligate the recipient to comply with the requirements of this part for the period it retains ownership or possession of the property or the property is used by a transferee for purposes directly related to the operations of the recipient.

(4) When Federal financial assistance is used by a recipient for purposes other than to obtain property, the assurance provided shall obligate the recipient to comply with the requirements of this part for the period during which the Federal financial assistance is extended to the program or activity.

[44 FR 31468, May 31, 1979, as amended at 68 FR 51390, Aug. 26, 2003]

§ 27.11 Remedial action, voluntary action and compliance planning.

(a) *Remedial action.* (1) If the responsible Departmental official finds that a qualified person with a disability has been excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under, any program or activity in violation of this part, the recipient shall take such remedial action as the responsible Departmental official deems necessary to overcome the effects of the violation.

(2) Where a recipient is found to have violated this part, and where another recipient exercises control over the recipient that has violated this part, the responsible Departmental official, where appropriate, may require either or both recipients to take remedial action.

(3) The responsible Departmental official may, where necessary to overcome the effects of a violation of this part, require a recipient to take remedial action:

(i) With respect to persons with a disability who are no longer participants in the recipient's program or activity but who were participants in the program or activity when such discrimination occurred, and

(ii) With respect to persons with a disability who would have been participants in the program or activity had the discrimination not occurred.

(b) *Voluntary action.* A recipient may take steps, in addition to any action that is required by this part, to assure the full participation in the recipient's program or activity by qualified persons with a disability.

(c) *Compliance planning.* (1) A recipient shall, within 90 days from the effective date of this part, designate and forward to the head of any operating administration providing financial assistance, with a copy to the responsible Departmental official the names, addresses, and telephone numbers of the persons responsible for evaluating the recipient's compliance with this part.

(2) A recipient shall, within 180 days from the effective date of this part, after consultation at each step in paragraphs (c)(2) (i)–(iii) of this section with interested persons, including persons with a disability and organizations representing persons with a disability:

(i) Evaluate its current policies and practices for implementing these regulations, and notify the head of the operating administration of the completion of this evaluation;

(ii) Identify shortcomings in compliance and describe the methods used to remedy them;

(iii) Begin to modify, with official approval of recipient's management, any policies or practices that do not meet the requirements of this part according

to a schedule or sequence that includes milestones or measures of achievement. These modifications shall be completed within one year from the effective date of this part;

(iv) Take appropriate remedial steps to eliminate the effects of any discrimination that resulted from previous policies and practices; and

(v) Establish a system for periodically reviewing and updating the evaluation.

(3) A recipient shall, for at least three years following completion of the evaluation required under paragraph (c)(2) of this section, maintain on file, make available for public inspection, and furnish upon request to the head of the operating administration:

(i) A list of the interested persons consulted;

(ii) A description of areas examined and any problems identified; and

(iii) A description of any modifications made and of any remedial steps taken.

[44 FR 31468, May 31, 1979, as amended at 68 FR 51390, Aug. 26, 2003; 79 FR 21405, Apr. 16, 2014]

§ 27.13 Designation of responsible employee and adoption of complaint procedures.

(a) *Designation of responsible employee.* Each recipient shall designate at least one person to coordinate its efforts to comply with this part.

(b) *Adoption of complaint procedures.* A recipient shall adopt procedures that incorporate appropriate due process standards and provide for the prompt and equitable resolution of complaints alleging any action prohibited by this part and 49 CFR parts 37, 38, and 39. The procedures shall meet the following requirements:

(1) The process for filing a complaint, including the name, address, telephone number, and email address of the employee designated under paragraph (a) of this section, must be sufficiently advertised to the public, such as on the recipient's Web site;

(2) The procedures must be accessible to and usable by individuals with disabilities;

(3) The recipient must promptly communicate its response to the complaint allegations, including its reasons for